

**E-COMMERCE A TRADE OPPORTUNITY FOR RECOVERY IN
TIMES OF GLOBAL CRISIS**

**A CASE STUDY OF THE EUROPEAN UNION - MERCOSUR FREE
TRADE AGREEMENT AND ITS CONSIDERATIONS OF E-
COMMERCE**

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E-COMMERCE A TRADE OPPORTUNITY FOR RECOVERY IN TIMES OF GLOBAL CRISIS

A CASE STUDY OF THE EUROPEAN UNION - MERCOSUR FREE TRADE AGREEMENT AND ITS CONSIDERATIONS OF E-COMMERCE.

The purpose of this document is to serve as a guide for negotiators during Free Trade Agreement (FTA) discussions by providing relevant considerations and suggestions about e-commerce as a mean to foment inter-regional trade, cultural and intellectual exchange, and serve as a measure to protect the national, regional and inter-regional economies involved during times of crisis. This document expects to deliver insight on the current situation of electronic commerce, how it can contribute to the economy in times of future crises, and how FTAs could strengthen this particular form of trade.

E-commerce is a means of trading goods and information, and providing services via a digital channel, it has been growing since the decade of 1990 and has become an everyday activity for millions of people around the world as well as the source of new innovative businesses and solutions, despite this, this way of trade has not been widely considered by major trade agreements. This oversight potentially disadvantages companies and entrepreneurs that could benefit from an inter-regional digital economy, slows innovation of the sector, restricts economic growth, and fails to provide adequate protection to consumers.

In the following pages the results of an investigation into e-commerce and inter-regional trade are reported. The report goes starts with a state of the art section on e-commerce and its significance for current FTA, then important factors about this internet-based economy and its interactions are stated to emphasize on some of the key aspects negotiators should keep in mind to benefit the parties of the treaty in discussion, countries or regional blocs, and finally the document closes with recommended provisions for a treaty of this nature.

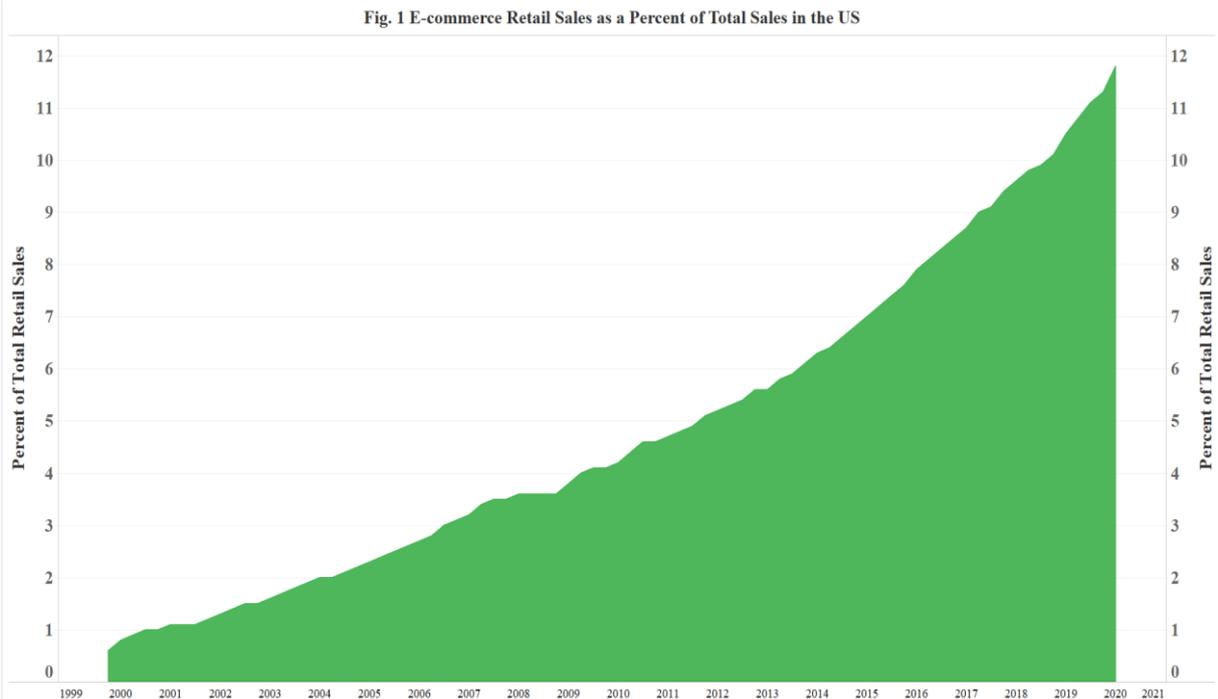
The main subject of this investigation has been the *European Union - Mercosur Free Trade Agreement* that, as the time of writing this paper, it is still to be ratified by all the member States of each regional block. The current documentation of the agreement was read and analyzed with the main focus being its considerations on e-commerce. Further information taken into account includes reports from the World Trade Organization (WTO), e-commerce standards of the European Union (EU) the *Digital Economy Partnership Agreement (DEPA) between Singapore, Chile & New Zealand*, and other sources, all of which will be acknowledged in the reference section of this document.

State of the Art

An important issue with e-commerce that must be mentioned is that there is too little data accessible to the public, most existing data is proprietary. The lack of sufficient and reliable data is a hindrance to understanding the true impact of trade on the economy, without which the development of Free Trade Agreements (FTA) better adapted to the actual needs and strengths of the involved states is harder to achieve.

With the available data on electronic commerce, it could be observed how it has been growing steadily for the last two decades. On figure 1, it can be seen that e-commerce retail sales in the

United States rose from 0.6% of total sales at the start of the century to 11.8% in the first quarter of the current year. It can also be observed that during the crisis of 2008, e-commerce retail sales did not decrease, they stayed constant at 3.6% of the total sales and by the end of the recession in 2009 they had become more than 4% of the total sales in the country.



U.S. Census Bureau, E-Commerce Retail Sales as a Percent of Total Sales [ECOMPCTSA], retrieved from FRED, Federal Reserve Bank of St. Louis; <https://fred.stlouisfed.org/series/ECOMPCTSA>, July 24, 2020.

As a rapidly growing sector of the global economy, e-commerce creates potential opportunities for both B2B and B2C trade, providing diverse advantages to the global economy, including *enhanced participation in international value chains, greater market access and reach, and improved internal and market efficiency and lower transaction cost.*¹ As such and because of its nature, e-commerce is in a privileged position to stimulate economic growth in a significant way.

Given the benefits associated with it and the prominence it has achieved in the last couple decades, it appears as a lost opportunity that governments have neglected e-commerce in trade agreement negotiations by treating it as a subsection of traditional trade, instead of treating it as its own unique economic sector with its own policies and conditions that would incentivize cooperation and economic growth.

It is indispensable to point out how during the COVID-19 pandemic, e-commerce has provided proof that during times of crisis it can help sustain the economy and pave the way for recovery. For the past several months when the world has been subjected to a global quarantine, it has allowed people and companies to buy and sell while keeping social distancing, something that would have been much more difficult through traditional trade alone. By fomenting economic activity during the crisis, it has also helped maintain many jobs relevant and available, as well as providing the opportunity for business to scale and pivot despite the challenge.

¹ Information Economy Report 2015. UNCTAD https://unctad.org/en/PublicationsLibrary/ier2015_en.pdf

The “Impact of the Coronavirus on E-commerce Survey Results Report” from May by Ecommerce Europe concluded “*The e-commerce sector has been a reliable factor throughout the crisis of the last months. It has been helping people in countries with even the strictest lockdown measures to get access to goods*”². Among the results of the survey, it was reported that from their March issue to May “*the e-commerce sector has also made a slight recovery in the last months, as fewer respondents are currently expecting a decrease of sales (73% to 39%)*.”³.

Being a medium of commerce that is still in its early stages, it is continuously developing and there are multiple issues about it that are being addressed or still have to be considered, and the current pandemic has helped to accelerate the work on many of them. International cooperation through free trade agreements that give relevance to e-commerce could help provide the fertile soil to better grow the sector.

Here is a non extensive list on some the issues:

1. Internet connectivity is not widespread to all the population;
2. Limited applications, platforms and services for e-commerce;
3. A limited number of payment solutions that provide a wider choice for customers;
4. Inadequate level of awareness from governments and lawmakers on the importance of contributing with relevant legislation and regulations to enhance trust online.

In figure 2, it can be observed the striking extent of inequality in e-commerce development between the EU and Mercosur according to data extracted from the “UNCTAD B2C E-commerce Index 2019”. From this document it can be noticed that in regard to e-commerce the Latin American bloc could be at a disadvantage if adequate negotiations do not attend weaknesses like the ones previously mentioned.

All this brings us to the conclusion that e-commerce needs a more prevalent position in trade agreements between nations or regional blocs. Enacting policies that benefit the exchange of electronically traded goods and services.

E-commerce and Sustainability

Information and Communication Technologies have created a transformation in trade, this digitalization in how people can exchange goods and services online is relevant for sustainability, specifically it can help meet the UN Agenda 2030 for Sustainable Development. Sustainable Development Goals (SDGs) that can be directly impacted by e-commerce include: gender equality, decent work and economic growth, industry, innovation and infrastructure; and partnerships for the goals⁴.

² E-commerce Europe.(27 March 2020) *Impact of coronavirus on e-commerce*. Survey Results Report.

³ E-commerce Europe.(14 May 2020) *Impact of coronavirus on e-commerce*. Survey Results Report.

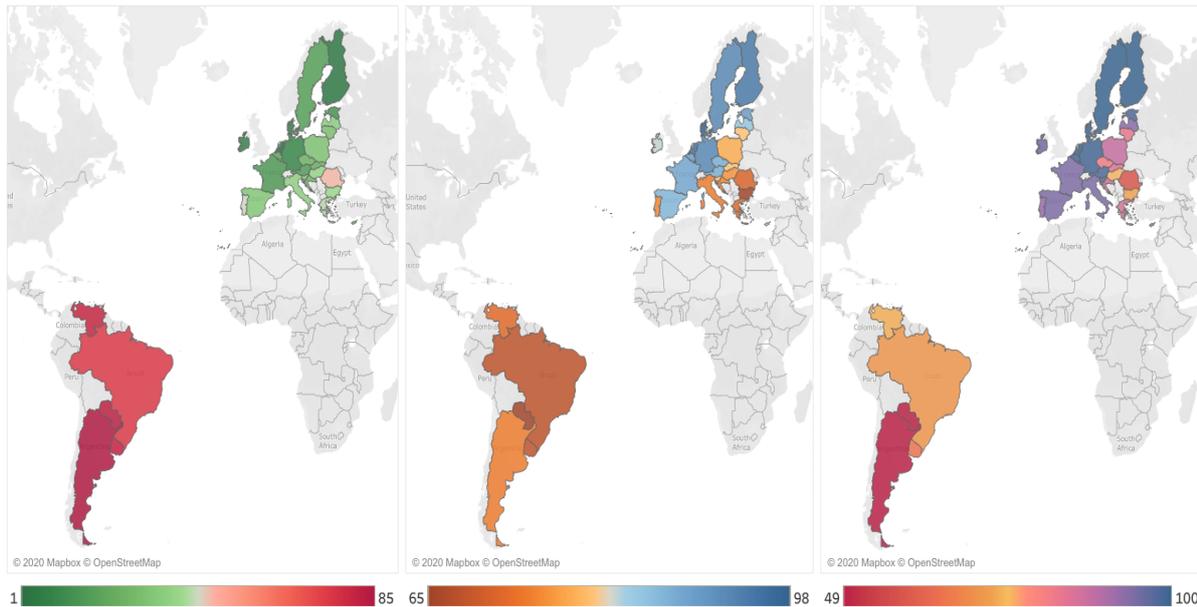
⁴ OECD and WTO. (2017) *Aid for trade at glance 2017: Promoting trade, inclusiveness and connectivity for sustainable development*. https://www.wto.org/english/res_e/booksp_e/aid4trade17_chap7_e.pdf

Fig. 2 UNCTAD B2C E-Commerce Index 2019

Fig. 2A UNCTAD 2019 E-Commerce Rank (1 is Best)

Fig. 2B Share of Individuals Using the Internet (2018 or latest)

Fig. 2A Share of Individuals with an Account (15+, 2017)



The member States in a FTA EU-Mercosur should establish an economic agenda that considers sustainable development and the social and environmental impact it can have, as it can benefit entrepreneurship, innovation, and the development of small businesses

The Parties should also have the responsibility to improve their political systems so they can effectively respond to the commercial dynamic, particularly e-commerce, by developing a legal framework, regulations and incentives that contribute to the digital economy⁵.

European Union - Mercosur Strategic Agreement

Global commerce is going through challenges in front of COVID-19 pandemic crisis, for this reason it is necessary to consider a question: *how does the European Union-Mercosur agreement could improve e-commerce during the emergency and beyond in the inter-regional market?*

Currently, the EU has a common policy on e-commerce, while its counterpart in this agreement does not have legal harmonization in this area, which means there is no standardization of e-commerce within the South American block creating difficulties for this manner of trade between its member States to trade. This agreement could become a solution for this issue, since it would provide a framework for these countries at the level of the EU standards.

It is necessary to highlight that this new agreement already has some considerations⁶ that are a step forward for e-commerce:

⁵ Wang, T (2018) *Electronic commerce and technology for sustainable development*. <https://www.unescap.org/blog/electronic-commerce-and-technology-for-sustainable-development>

⁶ SICE. (2019) *Acuerdo de Asociación Estratégica UE-Mercosur*. . http://www.sice.oas.org/tpd/mer_eu/Texts/Agt_in_Principle_s.pdf

- Benefits for small and medium-sized enterprises (SME) in the global and inter-regional trade;
- Lower barriers to international trade, fees and simplifies exports procedures;
- Incremental freedoms for goods and services trade;
- Recognizes different levels of development;
- Clear rules for custom offices that improve transparency and efficiency;
- Prohibits tariff duty in electronic transactions;
- Removes all unjustified obstacles, to guarantee legal security to businesses and a safe online environment.

Nonetheless, many aspects that could be essential for a healthy e-commerce environment between these two regional blocs have been ignored so far in the public draft currently available. These aspects are discussed in the upcoming sections of this document.

Considering that this inter-regional agreement is not ratified by all EU and Mercosur members States, and how lockdown measures have had an evident impact in the growth of e-commerce during this sanitary crisis; an opportunity has been opened for negotiators and policymakers to support new initiatives relevant to this reality, specifically to benefit e-commerce conditions as a medium to improve inter-regional commerce and development.

This promotion of electronic inter-regional trade could be a force to help developing countries, by creating new business opportunities and facilitating the procurement of goods and services that would otherwise be hard to come by in less developed countries

Rethinking e-commerce

Traditional economy was severely disrupted since the start of the pandemic, as social distancing and lockdowns became the norm all around the world⁷. As a reaction to this vacuum in trade, e-commerce has achieved unexpected relevance; millions of companies and entrepreneurs have been able to keep operating despite the crisis because they had already offered their products and services online or they were able to go online during the crisis.

E-commerce already was responding to new consumer behaviors and represented a source of benefit and challenges to governments before this situation, which now has broadened both of those realities. This is the reason why it must be addressed with attention by governments, since the trend is not expected to shift after the pandemic.

E-commerce can boost exports, and in consequence domestic companies can scale in foreign markets and access to the international supply chain; treaties should foment this trend and also help governments deal with the associated issues of taxation and transfer pricing.

Small and Medium-sized Enterprises Growth

Economic growth is one of the most important aspects for the development of countries and the reduction of poverty in the context of the COVID-19 crisis that has forced companies to let go a big number of employees.

⁷ World Trade Organization (WTO). 2020. Trade and COVID-19 pandemic (information note). https://www.wto.org/english/tratop_e/covid19_e/ecommerce_report_e.pdf

An alternative to solve this situation is for the Parties of the Agreement to recognize the importance of supporting SMEs and entrepreneurs as they sustain the dynamism and competitiveness of the economy and can also drive the digital economy.

Likewise, e-commerce can help these enterprises overcome obstacles and grow faster by expanding through digital channels. This digital environment allows them to attract new clients, establish alliances with other businesses, and find more financing opportunities.

E-commerce and job creation

It is commonly assumed that e-commerce has only an impact on information and technology jobs because trade occurs in a digital marketplace. This is not true, as e-commerce also affects a chain of value that creates direct and indirect jobs in sectors like logistics, transport, marketing, banking, consumer service, product development and design, to name a few.

During the sanitary crisis, millions of people have lost their jobs in the traditional market. Promoting e-commerce trade, cooperation and solutions, would create jobs that can be more stable in a similar crisis given the online nature of a digital marketplace.

The Parties shall create the conditions to recognize aspects like remote work that make it easier for SMEs to recruit talents that would otherwise be harder to get so they can grow faster and better suit the needs of the market.

Statistics, database and indicators

There are no comprehensive official statistics on the value of domestic and international e-commerce. Data is unavailable or insufficient to make a policy or to make decisions.⁸ Available statistics are given by Eurostat, yet on Mercosur data on e-commerce is a pending aspect on the development of the sector.

The access to information regarding the behavior of e-commerce by official public institutions, not that managed by private sources which is available at the moment, is vital to negotiate any free trade agreement on solid ground.

Additionally, there are no indicators in the public domain that measure the size and other variables of e-commerce be it at the national, regional or inter-regional level. The use of multiple indicators and metrics would improve the understanding of this dynamic on different levels and from different aspects which would help the creation of policies and agreements that better attend the needs of the market.

Protection, privacy and cybersecurity

⁸ UNCTAD. Information Economy Report 2015. https://unctad.org/en/PublicationsLibrary/ier2015_en.pdf

Although e-commerce has been widely neglected in FTAs, consumer protection and privacy have been the exception and have remained constant in most treaties that deal with the digital economy, and they should stay central to any agreement between nations and regional blocs.

Cybersecurity has been another important topic in the last years, yet it has been neglected so far by the EU-Mercosur agreement. This should be observed and standardized measures should be established that make sure to help keep consumers and businesses safe.

This topics are some of the most sensibles to States, therefore experience in individual countries exist in both the EU and Mercosur that signify advances in this area thanks to Digital Government and Open Data practices that recognize that data protection and cybersecurity require hard work and capable professionals responsible of guarding the data

The Parties of the agreement should share their good practices and experiences gained by national institutions dedicated to cybersecurity and deploy measures to monitor processes, create recommendations and guarantee the security and rights of consumers and businesses. In the same manner, it is recommended to the Parties to define legal procedures related to cybercrime and specifically some related to crimes perpetrated in the context of e-commerce. They should endeavor to cooperate to advance collaborative solutions to issues affecting safety and security online

Logistic

The commercial dynamic generated by the COVID-19 pandemic is reconsidering the traditional supply chain, creating strategies that regionalize it and looking for support in the local logistic ecosystem to create a swift and reliable pipeline of all kinds of goods and supplies.

Logistics are key to strengthen e-commerce, for this reason the Parties should recognize the importance of efficient custom logistics to reduce costs, waiting times, as a way to improve confidence in the supply chain. Likewise, they should evaluate which are the practices to improve efficiency and swiftness in logistics; innovative strategies like automation, self-driven vehicles, new delivery mechanisms, and information sharing between the Parties can greatly improve the experience of businesses and consumers dealing in the electronic market.

Technical cooperation

A constant challenge for developing countries is interoperability and access to the internet. In the aforementioned agreement, technical cooperation is not considered to promote accessibility along the different localities of the member States of the agreement.

This kind of cooperation could accelerate the digital transformation of small and medium sized businesses, increasing competitiveness, innovation as well as supply of products and service and demand from a better connected public.

Payment solutions

E-commerce payment mechanisms are mostly sustained on credit cards, which can be a problem considering that in less developed countries this financial tool is harder to access or is less useful.

It is important to consider the banking sector and entrepreneurs at the time of negotiating the deal as to encourage them to create new innovative and accessible payment solutions.

The Parties should create strategies that reduce inequality and facilitate the access to goods and services through digital channels for all. They should also promote FinTech solutions and in consequence collaborate with enterprises and startups in the region dealing with these issues.

Transparency

One of the pillars of the EU-Mercosur FTA. It is important to keep consumers, businesses and government institutions informed about their responsibilities in every e-commerce process, including customs and tributary issues.

Likewise, promoting the use of an Open Data framework would strengthen transparency.

Customs

Customs offices are a key aspect in the commercial process consequently necessary transformation or update to give timely answers to trade processes should be considered.

During the pandemic, customs offices have had to evaluate their procedures and apply agile and creative solutions to keep the supply chain moving, particularly when dealing with medical supplies and equipment, food and other indispensable goods to survive the crisis, while making sure to minimize health risks to officials and the population. The digital transformation of this sector has been indispensable to achieve these goals.

Given these considerations, it is pivotal for the Parties to move forward with automatization, digitalization and the simplification of customs procedures. It is recommended to create foreign trade single windows that are connected to the portuary authorities of each of the member States in order to execute collaborative actions during exceptional situations.

A single window system also elevates confidence and security in trade interactions by sharing data on sanitary and phytosanitary certifications, imports and exports and any other relevant information for the involved States. To the same effect, adopting technologies like artificial intelligence, blockchain, and big data analysis is recommended, as they contribute to economic recovery⁹.

Cooperation should be a primary factor in the agreement between the EU and Mercosur, it should foment harmonization and exchange of data to guarantee agile procedures that incentivize e-commerce. The States must establish clear communication protocols that are

⁹ Corcuera-Santamaría, S. y García, J. (2020). *The resilience and transformation of customs authorities during COVID-19*. Beyond Borders. BID. <https://blogs.iadb.org/integration-trade/en/customs-authorities-covid-19/>

sufficient and timely, as well as consider the availability of resources so that customs offices can attend sanitary crisis or natural disasters.

The adoption of automated customs declarations has been shown to bring clearance times down and to reduce the time that goods stay in transit, this is an example of how the adoption of ICTs in customs can prove beneficial.

Recommendations

- The Parties of the EU-Mercosur Free Trade Agreement (The Parties) shall involve in technical cooperation, transfer and dissemination of technology, especially in regards to privacy, cybersecurity and statistics;
- The Parties shall recognize that opening and sharing data and information is pivotal to accelerate economic and social development.
- The Parties should establish e-commerce specific indicators to measure its impact on inter-regional trade. Some suggested indicators are:
 1. Market share of big, medium and small companies, as well as startups in e-commerce.
 2. Inter-regional e-commerce index
 3. E-commerce employment rate
- The Parties shall ensure a safe and reliable internet access for all people and establish provisions that promote the constant improvement of the necessary infrastructure, available technology or any other
- The Parties shall promote participation of the banking and entrepreneurial sectors so they may create innovative and accessible payment methods for consumers. In addition, the States shall encourage the development of FinTech as a foundation for the electronic economy that provides opportunities for entrepreneurs and consumers.
- The Parties shall evaluate the impact of e-commerce on employment and trade during the COVID-19 pandemic to better understand its role to support the economy during a crisis.
- The Parties shall agree to develop an efficient, secure and reliable e-commerce ecosystem by enacting clear resolutions on the topics discussed throughout this document. Getting good quality metrics, open data initiatives, harmonization of procedures and the development of technology for cybersecurity are key for a healthy and safe environment.
- The Parties shall foment interoperability and interlinking of procedures, especially of payment services.
- The Parties shall prioritize the protection of personal data and confidentiality as one of the main pillars for trade development..
- The Parties shall make it easier for SMEs to access capital
- The Parties shall create measures that help small businesses access high quality logistics and supply chain services

Conclusions

E-commerce is currently challenged by an array of factors that prevent it to deliver on all of its benefits, which translates into challenges for the States that lack the knowledge and skills necessary to provide an ideal e-commerce environment. Internet access is limited to large

portions of the population in Latin America, transport and logistics infrastructure and services are deficient, as well as existing legal frameworks in regard to customer protections and cybercrimes, payment methods need to be diversified, cultural obstacles should be addressed, and policies that foment information sharing and fair trade need to be created.

The Free Trade Agreement between the European Union and Mercosur represents in itself a challenge, nonetheless it is appropriate to signify the grand opportunity that it offers to the development of e-commerce, innovation and job creation to both regional blocs. E-commerce can certainly further the recovery efforts given its distanced nature, low costs of operation, and how it is an inclusive space that allows small and medium enterprises to compete beside big corporations.

Adaptability is a key aspect for member States of any agreement of this nature to embrace e-commerce as an option for the economy after the commercial dynamic has been disrupted by the novel coronavirus.

Correspondingly, the agreement EU-Mercosur can be innovative by focusing its agenda on supporting a sector that contributes to the economy and also has continued to grow during the last months, while also emphasising on sustainability and on facing future crises when the digital economy will likely have taken a bigger share of the market, achieving this way a difference from other treaties. Today is the best moment to establish these solid foundations for a solid e-commerce that is sustainable, fair, inclusive and advances economic growth.

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